

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL NO. 05-80810

HON. LAWRENCE P. ZATKOFF

v.

STEPHANIE BAXTER,

Defendant.

ORDER

AT A SESSION of said Court, held in the United States Courthouse,
in the City of Port Huron, State of Michigan, on December 5, 2006

PRESENT: THE HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Defendant committed the offenses charged in the instant case while on probation for a state conviction. For purposes of the sentencing guidelines, the additional two criminal history points she received placed her in criminal history category II.

Guideline §4A1.3(c)(2) states that in the case of a downward departure, the court shall specify in writing “the specific reasons why the applicable criminal history category substantially over-represents the seriousness of the defendant’s criminal history or the likelihood that the defendant will commit other crimes.” In July 2003, Defendant was convicted of embezzlement in Oakland County Circuit Court and sentenced to eighteen months probation. At the conclusion of the eighteen months, Defendant was financially unable to pay the \$900.00 in fines and costs, and her probation was extended.

The extension of Defendant's probation was for the collection of the fines and costs, and not for any supervisory purpose. The Court holds that placing Defendant in criminal history category II because of her financial inability to pay fines and costs would substantially over-represent Defendant's criminal history. Thus, Court will remove the two points and place Defendant in criminal history category I.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: December 5, 2006

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on December 5, 2006.

s/Marie E. Verlinde
Case Manager
(810) 984-3290